

ROLANDO CAMUNAS (“Plaintiff”), by and through his attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against NATIONAL REPUBLICAN SENATORIAL COMMITTEE (“Defendant” or “NRSC”):

1. Plaintiff's Second Amended Complaint is based on the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 *et seq.*

2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

4. Plaintiff resides in the Commonwealth of Pennsylvania.

5. The acts and omissions described herein occurred primarily in the Commonwealth of Pennsylvania.

1

**PARTIES**

9. Plaintiff is a natural person residing in Philadelphia, Pennsylvania.

10. Plaintiff is a “person” as that term is defined by 47 U.S.C. § 153(39).

11. Defendant is a corporation that has its headquarters located at 425 2<sup>ND</sup> Street NE,  
Washington, DC 20002.

9. Plaintiff is a natural person residing in Philadelphia, Pennsylvania.

11. Defendant is a corporation that has its headquarters located at 425 2<sup>ND</sup> Street NE,  
Washington, DC 20002.

13. Defendant acted through its agents, employees, officers, members, directors, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

## **The NRSC and Fundraising Solicitation Text Messages**

15. Defendant has devised and implemented a fundraising strategy which includes the transmission of text messages to prospective donors.

PLAINTIFF'S SECOND AMENDED COMPLAINT

1           17. On NRSC's website, the organization concedes that its communications are  
2 "recurring autodialed marketing messages." (See Ex. A, Printout from NRSC's webpage, p. 6  
3 ("By participating, you agree to the terms & privacy policy (55404-info.com) for recurring  
4 autodialed marketing messages from NRSC to the phone number you provide.")<sup>1</sup>

5           18. The frequency and recurrent nature of the NRSC fundraising text messages was  
6 so overwhelming and tedious, it led prominent conservative attorney and activist Will  
7 Chamberlain to screenshot several of the fundraising text messages and to proclaim via tweet "Hi  
8 @WINRED and @NRSC! These text message are not TCPA compliant."<sup>2</sup> (See Ex. B, Will  
9 Chamberlain tweet, 07/30/2020.)

### 11                           **The NRSC's Text Messages to Plaintiff**

12           19. Plaintiff's cell phone number, 215-XXX-5091 has been on the FTC's federal Do  
13 Not Call Registry since June 19, 2015.

14           20. Plaintiff registered his cell phone number on the Do Not Call registry due to his  
15 desire for solitude and a desire to be free of unwanted calls and text messages.

16           21. Plaintiff never consented to receive text messages from the NRSC, never donated  
17 to the NRSC and never "subscribed" to receive NRSC fundraising texts.

18           22. Despite the fact that Plaintiff's cell phone number had been registered on the Do  
19 Not Call list since 2015, and despite the fact that Plaintiff never consented for the NRSC to call  
20 or text him, Defendant placed a series of harassing and intrusive text messages seeking to raise  
21 money for political candidates in or around September 2020.

22  
23           <sup>1</sup> Again, Plaintiff did not consent to receiving the aforementioned text messages from NRSC prior to the NRSC's  
24 issuance of said text messages.

25           <sup>2</sup> Mr. Chamberlain is not a judge or TCPA scholar. Reference to this tweet is simply to demonstrate that the volume  
of NRSC's "blast" text messages blasts - and impropriety of same - was so brazen that even allies noted the  
organization's non-compliance with the statute.

1           23. Plaintiff knows the texts were sent by the NRSC and/or at the direction of NRSC  
2 because of the text messages contained a link to the NRSC's website.

3           24. Specifically, Defendant sent text messages to Plaintiff including but not limited  
4 to.

5           25. On or around 09/07/2020 at approximately 2:00 pm EST, utilizing the toll-free  
6 number 1 (855) 265-3489, Defendant sent to Plaintiff a generic, pre-scripted text message  
7 reading "It's Eric Trump. 5X-Matching is extended 24HRS. We're just 57 days away from  
8 Election Day & need your help NOW to close the gap! <http://teamtrump.co.l>" (A true and  
9 correct copy of a screenshot of that text message with a printout of the link from the referenced  
10 website is attached as Exhibit "C.")

11           26. Plaintiff knows this text came not from Eric Trump, but from the NRSC (or an  
12 agent acting at the NRSC's direction and/or for the benefit of the NRSC) because Plaintiff  
13 clicked the link identified in the subject text message to confirm the identity of the texting party.  
14 When Plaintiff did so, his browser was directed on the NRSC's website.

15           27. Plaintiff captured screenshot images of the NRSC website, which seek donations  
16 for the NRSC. (See Ex. "C.")

17           28. The NRSC website to which Plaintiff was directed stated: "By providing your cell  
18 phone or mobile phone number you are consenting to receive calls and texts, including  
19 autodialed and automated calls and texts." (Ex. "C.") Plaintiff did not provide his phone  
20 number to NRSC at any time.

21           29. On or around 09/09/2020 at approximately 6:43 pm EST, utilizing the toll-free  
22 number 1 (844) 264-7859, Defendant sent to Plaintiff a generic, pre-scripted text message  
23 reading "Hi, you're listed as a Trump supporter who has NOT endorsed the President for 2020. If  
24  
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1 you stand with Trump, update your record: <http://nrsc.news/3v>.” (A true and correct copy of a  
2 screenshot of that text message with a printout of the link from the referenced website is attached  
3 as Exhibit “D.”)

4 30. Plaintiff knows this text came from the NRSC (or an agent acting at the NRSC’s  
5 direction and/or for the benefit of the NRSC) because the link referenced in the text identifies  
6 “NRSC” and when Plaintiff clicked the link to confirm the identity of the texting party, his  
7 browser landed on the NRSC’s website.

8 31. As of May 28, 2021, the URL identified in the text leads to the NRSC’s website.  
9 (See Ex. “D”, NRSC restore the majority” link.)

10 32. On or around 09/10/2020 at approximately 1:57 pm EST, utilizing the toll-free  
11 number 1 (844) 264-7946, Defendant sent to Plaintiff a generic, pre-scripted text message  
12 reading “Pres Trump is rallying in Michigan TONIGHT! You only have a few hrs left to submit  
13 your official endorsement for 2020. Act now -> <http://bit.ly.2rc8bK>.” (A true and correct copy  
14 of a screenshot of that text message with a printout of the link from the referenced website is  
15 attached as Exhibit “E.”)

16 33. Plaintiff knows this text came from the NRSC (or an agent acting at the NRSC’s  
17 direction and/or for the benefit of the NRSC) because Plaintiff clicked the link identified in the  
18 subject text message to confirm the identity of the texting party. When Plaintiff did so, his  
19 browser was directed on the NRSC’s website. (See Ex. “E.”)

20 34. As of 05/28/2021, the above-referenced URL is still owned by the NRSC. (See  
21 Ex. “E.”)

22 35. On or around 09/12/2020 at approximately 1:57 pm EST, utilizing the toll-free  
23 number 1 (855) 264-7896, Defendant sent to Plaintiff a generic, pre-scripted text message  
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1 reading “ALERT: Pres. Trump & Sleepy Joe are neck-and-neck We need YOU! Sign the 2020  
2 pledge to VOTE TRUMP to help our President WIN: <http://bit.ly/2DSuTo1..>” (A true and  
3 correct copy of a screenshot of that text message with a printout of the link from the referenced  
4 website is attached as Exhibit “F.”)

5 36. Plaintiff knows this text came from the NRSC (or an agent acting at the NRSC’s  
6 direction and/or for the benefit of the NRSC) because Plaintiff clicked the link identified in the  
7 subject text message. Plaintiff did so not to help Pres. Trump pull ahead of “Sleepy Joe” but to  
8 confirm the identity of the texting party. When Plaintiff did so, his browser was directed on the  
9 NRSC’s website.

10 37. As of 05/31/2021, the above-referenced URL is still owned by the NRSC. (See  
11 Ex. “F.”)

12 38. On or around 09/15/2020 at approximately 5:57 pm EST, utilizing the toll-free  
13 number 1 (844) 605-3489, Defendant sent to Plaintiff a generic, pre-scripted text message  
14 reading “Did you see Eric Trump’s text We still need YOU to complete your pledge to VOTE  
15 TRUMP! The deadline is tonight. Add your name:: <http://teamtrump.co3q>.” (A true and correct  
16 copy of a screenshot of that text message with a printout of the link from the referenced website  
17 is attached as Exhibit “G.”)

18 39. Plaintiff knows this text came from the NRSC (or an agent acting at the NRSC’s  
19 direction and/or for the benefit of the NRSC) because Plaintiff clicked the link identified in the  
20 subject text message to confirm the identity of the texting party. When Plaintiff did so, his  
21 browser was directed on the NRSC’s website.

22 40. Plaintiff captured screenshot images of the NRSC website, which seek donations  
23 for the NRSC. (See Ex. “G”)  
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1           41. On or around 10/16/2020 at approximately 7:12 pm EST from the number 936-  
2 249-9558, Defendant sent to Plaintiff a pre-scripted text message, which was generic other than  
3 the fact it was addressed to an individual named “Wilford.” The subject text read “Sorry for  
4 bugging you, Wilford. This deadline is vital. If you give \$15 we can catch Biden, Schumer &  
5 the Dems! If not, we lose. 6x now: [trump-team.com/nnz](http://trump-team.com/nnz).” (A true and correct copy of a  
6 screenshot of that text message with a printout of the link from the referenced website is attached  
7 as Exhibit “H.”)

8           42. Plaintiff knows this text came from the NRSC (or an agent acting at the NRSC’s  
9 direction and/or for the benefit of the NRSC) because Plaintiff clicked the link identified in the  
10 subject text message to confirm the identity of the texting party. When Plaintiff did so, his  
11 browser was directed on the NRSC’s website. Plaintiff captured screenshot images of the NRSC  
12 website, which seek donations for the NRSC. (See Ex. “H”)

13           43. Plaintiff has never gone by the name “Wilford” - to whom the text was addressed.

14           44. Given the high volume of texts Plaintiff received from NRSC where Plaintiff has  
15 never consented to calls from the NRSC or signed up for same, it appears Defendant his number  
16 as though it belonged to an NRSC message subscriber named “Wilford.”

17           45. Plaintiff found the text messages to be annoying, disruptive, frustrating and an  
18 invasion of his privacy.  
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22           **Plaintiff Reasonably Infers Defendant Caused Text Messages to be Sent Using ATDS**

23           46. There are various reasons why Plaintiff believes the text messages he received  
24 from NRSC were sent using an automatic telephone dialing system.  
25

1 47. First, Defendant's text messages were impersonal, generic and obviously pre-  
2 written.<sup>3</sup>

3 48. Plaintiff also received a relatively high volume of text messages despite the lack  
4 of consent or prior relationship.<sup>4</sup>

5 49. Furthermore, most of the text messages Plaintiff received from the NRSC appear  
6 to have been sent from toll-free numbers. Just as messages sent from short-code numbers create  
7 an inference that messages were sent out *en masse*, that same inference can be drawn from the  
8 use of toll-free numbers; organizations use toll free numbers when engaging in a high-volume of  
9 interactions and communications. Signs of an "institutional sender" can create an inference of  
10 ATDS.<sup>5</sup>

11 50. Additionally, Defendant's own website concedes the NRSC sends "recurring  
12 autodialed marketing messages." (*See* Ex. "A.")<sup>6</sup>

13 51. Defendant will contend that it only sends autodialed messages to "subscribers".  
14 However, the volume of text messages Plaintiff received from the NRSC despite never  
15 consenting to receive calls/texts from the NRSC, coupled with the fact that Plaintiff received a  
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17 <sup>3</sup> In the context of a text message, a "generic message content may be sufficient to support an inference that an  
18 ATDS was used." Gragg v. Orange Cab Co., 942 F. Supp. 2d 1111, 1115 (W.D. Wash. 2013); *see also* Davis v.  
19 D.R. Horton Inc., No. 19-1686-MN-JLH, 2020 U.S. Dist. LEXIS 44977, at \*5 (D. Del. Mar. 16, 2020) ("plaintiff  
alleges that she received impersonal text messages and that they were sent using a vanity short code. Plaintiff further  
alleges that, upon and information and belief, defendant used an ATDS. That is enough to proceed at this stage of  
the litigation.")

20 <sup>4</sup> Zemel v. CSC Holdings LLC, Civil Action No. 18-2340-BRM-DEA, 2018 U.S. Dist. LEXIS 201917, at \*16  
21 (D.N.J. Nov. 29, 2018) (case identified by this Court as "Zemel II") (unsolicited text messages from short code  
number without prior existing relationship all factors sufficient to create an inference that the defendant used an  
ATDS.)

22 <sup>5</sup> cf. Freidman v. Massage Envy Franchising, LCC, 2013 U.S. Dist. LEXIS 84250, 2013 WL 3026641, at \*2 (S.D.  
23 Cal. June 13, 2013) ("The text of the SMS message ... clearly suggests that it is from an institutional sender without  
any personalization, support the inference that an ATDS was used to send the messages"); *see* Sojka v. DirectBuy,  
24 Inc., 35 F. Supp. 3d 996, 1004 (N.D. Ill. 2014) (same).

25 <sup>6</sup> Sieleman v. Freedom Mortg. Corp., No. 17-13110, 2018 U.S. Dist. LEXIS 129698 (D.N.J. Aug. 2, 2018) (website  
stating mortgage company uses autodialer supports inference of ATDS).



1 text addressed to someone named “Wilford” leads Plaintiff to believe Defendant incorrectly  
2 classified him as a subscriber named “Wilford”.

3 52. Because Defendant concedes it sends autodialed messages (at least to  
4 “subscribers”) and Defendant appears to have classified Plaintiff’s number as belonging to a  
5 subscriber named “Wilford”, Plaintiff reasonably believes that Defendant sent him texts using an  
6 ATDS.

7 53. While Plaintiff has not yet had the benefit of discovery, the factors above are  
8 more than sufficient to infer ATDS was utilized by the NRSC.

9 54. The actions described herein were in violation of the TCPA.  
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12 **COUNT I**  
**Defendants Violated the TCPA 47 U.S.C. § 227(b)**

13 55. Plaintiff incorporates the forgoing paragraphs as though the same were set forth at  
14 length herein.

15 56. The TCPA prohibits placing calls or text messages using an automatic telephone  
16 dialing system or automatically generated or prerecorded voice to a cellular telephone except  
17 where the caller has the prior express consent of the called party to make such calls or where the  
18 call is made for emergency purposes. 47 U.S.C. § 227(b)(1)(A)(iii).  
19

20 57. Because a text is a “call” under the TCPA, by logical extension, a text with a pre-  
21 written script is a “call with a pre-recorded voice” under the statute.

22 58. Defendant sent to Plaintiff text messages with pre-written script.

23 59. Upon information and belief, Defendant uses dialing technology, which calls  
24 phone numbers from a stored list using a random or sequential number generator to select those  
25 phone numbers.

60. Here, Defendant initiated multiple text messages to Plaintiff's cellular telephone number using an automatic telephone dialing system.

61. Defendant's texts were not made for "emergency purposes."

62. Defendant's texts to Plaintiff's cellular telephones without any prior express consent.

63. Defendant repeatedly contacted Plaintiff despite the fact that Plaintiff has been on the Do Not Call Registry.

64. Defendant's acts as described above were done with malicious, intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the purpose of harassing Plaintiff.

65. The acts and/or omissions of Defendant were done unfairly, unlawfully, intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal defense, legal justification or legal excuse.

66. As a result of the above violations of the TCPA, Plaintiff has suffered the losses and damages as set forth above entitling Plaintiff to an award of statutory, actual and trebles damages.

**COUNT II**  
**Defendant Violated the TCPA 47 U.S.C. § 227(C)**

67. Plaintiff incorporates the forgoing paragraphs as though the same were set forth at length herein.

68. The TCPA prohibits any person or entity of initiating any telephone solicitation to a residential telephone subscriber who has registered his or his telephone number on the National Do-Not-Call Registry of persons who do not wish to receive telephone solicitations that is maintained by the Federal Government. 47 U.S.C. § 227(c).

1           69. Defendant contacted Plaintiff despite the fact that Plaintiff has been on the Do  
2 Not Call Registry since 2015.

3           70. Defendant's acts as described above were done with malicious, intentional,  
4 willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the  
5 purpose of harassing Plaintiff.

6           71. The acts and/or omissions of Defendant were done unfairly, unlawfully,  
7 intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal defense,  
8 legal justification or legal excuse.

9           72. As a result of the above violations of the TCPA, Plaintiff has suffered the losses  
10 and damages as set forth above entitling Plaintiff to an award of statutory, actual and trebles  
11 damages.  
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14           **Wherefore, Plaintiff, ROLANDO CAMUNAS, respectfully prays for judgment as**  
15 **follows:**

- 16           a. All actual damages Plaintiff suffered (as provided under 47 U.S.C. §  
17           227(b)(3)(A));
- 18           b. Statutory damages of \$500.00 per violative telephone call (as provided  
19           under 47 U.S.C. § 227(b)(3)(B));
- 20           c. Additional statutory damages of \$500.00 per violative telephone call (as  
21           provided under 47 U.S.C. § 227(C);
- 22           d. Treble damages of \$1,500.00 per violative telephone call (as provided  
23           under 47 U.S.C. § 227(b)(3));  
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- 1 e. Additional treble damages of \$1,500.00 per violative telephone call (as  
2 provided under 47 U.S.C. § 227(C);  
3 f. Injunctive relief (as provided under 47 U.S.C. § 227(b)(3) and (c); and  
4 g. Any other relief this Honorable Court deems appropriate.  
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9 **DEMAND FOR JURY TRIAL**

10 PLEASE TAKE NOTICE that Plaintiff, ROLANDO CAMUNAS, demands a jury trial  
11 in this case.  
12

13 RESPECTFULLY SUBMITTED,  
14

15 DATED: June 15, 2021

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1 I, Jacob U. Ginsburg, hereby certify that on June 15, 2021 a true and correct copy of the  
2 foregoing Second Amended Complaint was served on all parties of record via ECF.

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4 /s/ Jacob U. Ginsburg  
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